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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PEARSON EDUCATION, INC.; CENGAGE LEARNING, INC.; and MCGRAW-HILL GLOBAL EDUCATION HOLDINGS, LLC,

Plaintiffs,

v.

DOES 1-100,

Defendants.

Civil Action No. _17-cv-203-DAB_________

DAB/s 1/17/17

~~[PROPOSED]~~ ORDER TO SHOW CAUSE, TEMPORARY RESTRAINING ORDER, AND EXPEDITED DISCOVERY ORDER

ORDER TO SHOW CAUSE

Plaintiffs Pearson Education, Inc., Cengage Learning, Inc., and McGraw-Hill Global Education Holdings, LLC (collectively, "Plaintiffs") have moved *ex parte* against Defendants Does 1-100 ("Defendants") for a temporary restraining order, expedited discovery order, and order to show cause for preliminary injunction pursuant to Federal Rules of Civil Procedure 64 and 65, the Copyright Act (17 U.S.C. § 502(a)), the Lanham Act (15 U.S.C. § 1116), and N.Y. C.P.L.R. § 6201. Plaintiffs proceed on the basis that Defendants are importing, distributing, offering for sale and/or selling counterfeits of Plaintiffs' textbooks, i.e., unauthorized copies of Plaintiffs' copyrighted works bearing Plaintiffs' federally registered trademarks, as set forth in Plaintiffs' Complaint.

The Court, having reviewed the Complaint, Memorandum of Law, supporting Declarations and exhibits submitted therewith, HEREBY FINDS:

A. Plaintiffs are likely to succeed in showing that Defendants have infringed and are continuing to infringe Plaintiffs' federally registered copyrights and trademarks in connection with Defendants' importation, distribution, offering for sale and/or sale of counterfeits of

Plaintiffs' textbooks, including via the following online storefronts on the Amazon.com marketplace:

(1) _Best_Bookstore_ (Seller ID - AHVFVEEJX47FM)

(2) ABC Trading Group (Seller ID A2MBNV2T9HT1Y0)

(3) acerbooks (Seller ID A2YZKS0F51PXLM)

(4) Amazeeng (Seller ID AL5UW87ML1EXF)

(5) Atlantic Corner (Seller ID A2R8A4DP65CE1)

(6) Books Deposit Worldwide, f/k/a Fiedel Retails (Seller ID A2LGOO4N4RK026)

(7) Boosti LLC (Seller ID A179GETFEHNZR2)

(8) CalText Books (Seller ID ATVPDKIKX0DER)

(9) Cameron's Treasures (Seller ID AOU12I4K26OHC)

(10) CheapAZZBooks (Seller ID A2TKMPXX6CQRJI)

(11) classicbook (Seller ID A294CMWX8KAGBE)

(12) Donald Boone (Seller ID A3PBGSERTQXEVG)

(13) eBOOKSHOUSE (Seller ID A2AHKOYMZDI15S)

(14) Fine Line Media (Seller ID A210ICNPH3ZM0M)

(15) happy_textbooks (Seller ID A18SIXOC6A2FIL)

(16) Marion Marketplace (Seller ID A2VD3DBSBAUDUU)

(17) Mommys Place (Seller ID AUJVS5879E9OV)

(18) nightdream (Seller ID A2GQ8MJSSI69Z2)

(19) onlinebeagle_books (Seller ID A35TMV14ZDNOGT)

(20) ORCHIDSALES (Seller ID A3T0DRZUGQ8ZE2)

(21) Plan-B-99 (Seller ID A3VBR8RLJKV8E2)

(22) Qcomma (Seller ID A2OCHQVZ4MLWXB)

(23) QVC-media (Seller ID A2EBI7JXH8HHEA)

(24) RockCityBooks (Seller ID A2TFZQQVV4WT3I)

(25) Shaqsnow (Seller ID A2032QCFJ6CJ3)

(26) Simple Livings (Seller ID A196TNQGJJJV7)

(27) Tesco Link (Seller ID ALNI5J7Y9NC6C)

(28) TEXTbookAMAZING (Seller ID A2TKMPXX6CQRJI)

(29) theBookArb (Seller ID AB6G7R444K8T2)

(30) univbooks2011 (Seller ID A3OYGTB0TWCI6A)

(collectively, the "Online Storefronts").

B. The importation, distribution, offering for sale, and/or sale of counterfeits of Plaintiffs' textbooks will result in immediate and irreparable injury to Plaintiffs if the requested relief is not granted; and

C. The harm to Plaintiffs from denial of the requested *ex parte* order outweighs the harm to Defendants' legitimate interests against granting such order.

THEREFORE, IT IS HEREBY ORDERED that Defendants Does 1-100 shall appear on the 16th day of February 2017 at 2:30 a.m./p.m. in Courtroom 24B of the United States District Court for the Southern District of New York at 500 Pearl Street / 40 Centre Street, New York, New York, to show cause why an Order, pursuant to Federal Rules of Civil Procedure 64 and 65, the Copyright Act (17 U.S.C. § 502(a)), the Lanham Act (15 U.S.C. § 1116), N.Y. C.P.L.R. § 6201, and the Court's equitable authority, should not be entered, pending resolution of this case or further order of this Court, granting Plaintiffs a preliminary injunction enjoining Defendants, their officers, directors, agents, servants, representatives, employees, successors, and assigns, and all those acting in concert or in participation with any of them, in a manner substantially similar to the relief provided in the Temporary Restraining Order below.

IT IS FURTHER ORDERED that Defendants' answering papers shall be filed and served upon Plaintiffs' counsel, by email to kerry@oandzlaw.com, by the 9th day of February, 2017, ~~and Plaintiffs' reply papers, if any, shall be filed and served on Defendants by the _____ day of ____________, 2017.~~ DAB 1/17/17

TEMPORARY RESTRAINING ORDER

IT IS HEREBY ORDERED, in accordance with Rule 65 of the Federal Rules of Civil Procedure, the Copyright Act (17 U.S.C. § 502(a)), the Lanham Act (15 U.S.C. § 1116), and the Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, and no prior application having been granted, that:

1. Defendants, their officers, directors, agents, servants, representatives, employees, successors, and assigns, and all those acting in concert or in participation with any of them, are enjoined from:

a) Directly or indirectly infringing any copyrighted work that is owned or controlled by any of Plaintiffs (or any parent, subsidiary, or affiliate of Plaintiffs) ("Plaintiffs' Works");

b) Directly or indirectly infringing any trademark that is owned or controlled by any of Plaintiffs (or any parent, subsidiary, or affiliate of Plaintiffs) ("Plaintiffs' Marks");

c) Directly or indirectly manufacturing, importing, distributing, offering for sale and/or selling counterfeits of Plaintiffs' textbooks;

d) Enabling, facilitating, permitting, assisting, soliciting, encouraging or inducing others to directly or indirectly infringe Plaintiffs' Works, Plaintiffs' Marks, and/or manufacture, import, distribute, offer for sale and/or sell counterfeits of Plaintiffs' textbooks; and

2. Defendants, their officers, directors, agents, servants, representatives, employees, successors, and assigns, and all those acting in concert or in participation with any of them, and Amazon.com, Inc., must, upon receiving actual notice of this Temporary Restraining Order, immediately locate all accounts connected to any of Defendants' Online Storefronts ("Defendants' Accounts") and immediately cease transferring or disposing of any money or other assets residing in Defendants' Accounts, cease allowing such funds to be transferred or withdrawn, and cease allowing any diminutions to be made from Defendants' Accounts pending further order of this Court. This includes but is not limited to: (a) any and all of Defendants' Accounts with Amazon.com, Inc.; and (b) any financial institution accounts linked to Defendants' Accounts or that otherwise have received payments for purchases from Defendants' Online Storefronts.

3. Defendants, their officers, directors, agents, servants, representatives, employees, successors, and assigns, and all those acting in concert or in participation with any of them, must, upon receiving notice of this Temporary Restraining Order, immediately locate all physical copies of books published by any of the Plaintiffs ("Plaintiffs' Books") that are within their possession, custody or control, and immediately cease selling, distributing, transferring, or disposing of Plaintiffs' Books pending an inspection by Plaintiffs. Any such Books determined by Plaintiffs during the inspection to be authentic and not counterfeit shall, upon Plaintiffs' notice of such determination, be exempted from this Temporary Restraining Order.

4. Amazon.com, Inc. shall immediately cease selling, distributing, transferring, or disposing of any of Plaintiffs' Books, that it can locate following a reasonable search, on behalf of any of the Defendants or Online Storefronts pending Plaintiffs' inspection pursuant to the

Expedited Discovery Order below. Any of Plaintiffs' Books determined during the inspection to be authentic and not counterfeit shall be exempted from this Temporary Restraining Order with immediate effect.

IT IS FURTHER ORDERED that this Temporary Restraining Order shall remain in effect until the date for hearing on the Order to Show Cause set forth above, or such further date as set by the Court.

IT IS FURTHER ORDERED that Plaintiffs shall post security in the amount of $ 2,500.00, by corporate surety bond, cash, credit card, or a certified or attorney's check.

IT IS FURTHER ORDERED that upon two (2) business days' written notice to the Court and Plaintiffs' counsel, any Defendant or restrained third party may appear and move for the dissolution or modification of the provisions of this Temporary Restraining Order upon an appropriate evidentiary showing.

IT IS FURTHER ORDERED that Plaintiffs shall serve copies of this Order, the Complaint, and Plaintiffs' *ex parte* application (together with all supporting declarations and other documents) on Defendants via the email addresses associated with their Online Storefronts. Plaintiffs shall promptly file proof of such service.

EXPEDITED DISCOVERY ORDER

IT IS HEREBY ORDERED that Plaintiffs' motion for leave to take expedited discovery, prior to a Rule 26(f) conference, is GRANTED. Plaintiffs may issue a Rule 45 subpoena to Amazon.com, Inc. seeking Defendants' true names, aliases, and all related contact and financial account information associated with Defendants' Online Storefronts, including financial institution accounts or credit cards linked to Defendants' Accounts. Subject to appropriate objections, Amazon shall produce responsive records within three days of service of the subpoena.

IT IS FURTHER ORDERED that Plaintiffs may serve a second subpoena pursuant to Federal Rule of Civil Procedure 45 on Amazon.com, Inc. seeking to conduct an inspection of all Plaintiffs' Books held by Amazon on behalf of any of the Defendants or Online Storefronts. Subject to applicable objections, in advance of the inspection, if available, Amazon should provide Plaintiffs with a list of Plaintiffs' Books held by Amazon on behalf of any of the Defendants or Online Storefronts, and Plaintiffs and Amazon should work cooperatively to coordinate an inspection to determine the legitimacy of the inventory. Any of Plaintiffs' Books confirmed to be counterfeit during the inspection will be turned over to Plaintiffs to be held until this matter is concluded. Any of Plaintiffs' Books confirmed to be authentic and not counterfeit shall be returned to Amazon and/or Defendants and exempt from the Temporary Restraining Order with immediate effect.

SO ORDERED this 17th day of January, 2017.

Deborah A. Batts
United States District Judge